

Message Text

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PAGE 01 MTN GE 02611 01 OF 02 160845Z

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ACTION EB-07

INFO OCT-01 IO-10 AF-06 ARA-06 EA-06 EUR-12 NEA-09 ISO-00

FEA-01 AGR-05 CEA-01 CIAE-00 COME-00 DODE-00 FRB-03

H-02 INR-07 INT-05 L-02 LAB-04 NSAE-00 NSC-05 PA-01

AID-05 CIEP-01 SS-15 STR-04 TAR-01 TRSE-00 USIA-06

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FM USDEL MTN GENEVA

TO SECSTATE WASHDC 55

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PAGE 02 MTN GE 02611 01 OF 02 160845Z

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LIMITED OFFICIAL USE SECTION 1 OF 2 MTN GENEVA 2611

E.O. 11652: N/A

TAGS: ETRD, GATT

SUBJECT: MTN: SAFEGUARDS GROUP MEETING, APRIL 10-11

1. SUMMARY: SAFEGUARD GROUP MET APRIL 10-11 IN CONSTRUCTIVE ATMOSPHERE AND AGREED CONTINUE ON TWO STAGE WORK PROGRAM LAID OUT BY USG IN OCTOBER. GROUP AGREED FIRST STAGE EXAMINATION PRESENT MULTILATERAL SAFEGUARD SYSTEM (MSS) TO CONTINUE AND PERHAPS BE COMPLETED AT MEETING BEGINNING JUNE 30 WITH SECOND STAGE EXAMINATION OF POSSIBLE NEW SYSTEM TO BEGIN THEREAFTER. WORK PROGRAM ASSIGNED SECRETARIAT INCLUDED (1) COLLATION AND PRESENTATION OF RESPONSES TO PREVIOUSLY CIRCULATED QUESTIONS, (2) COMPILATION OF SAFEGUARD ACTIONS BY GATT ARTICLE OR OTHER TYPE MEASURE (OUTLINE IN SEPTEL) AND (3) DESCRIPTION OF IMPACT OF SAFEGUARD MEASURES ON TRADE OF DEVELOPING COUNTRIES. AGRICULTURE SPECIFICALLY INCLUDED IN WORK PROGRAM WITH NO OBJECTION FROM EC. JAPAN OBJECTED PRIVATELY TO CONSIDERATION OF NON-GOVERNMENT MEASURES AND INDICATED MIGHT TAKE ISSUE TO TNC IF NECESSARY. END SUMMARY.

2. PRE-MEETING CONSULTATIONS INDICATED SECRETARIAT (PATTERSON) USING PROSPECTIVE CHAIRMAN (COLLIANDER) TO PUSH GROUP TO IMMEDIATE CONSIDERATION OF NEW SYSTEM CONTRARY TO AGREED WORK PROGRAM. CANADA (GREY) ALSO WANTED MOVE RAPIDLY TO CONSIDERATION AND COMPLETION OF NEW MSS. CONSULTATION BY U.S. DEL WITH KEY DELEGATIONS AND EXPLANATION OF U.S. PROPOSED SCENARIO LED TO MODERATION OF CANADIAN POSITION AND CHAIRMAN'S PROPOSED AGENDA.

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PAGE 03 MTN GE 02611 01 OF 02 160845Z

3. DISCUSSION PURSUANT TO REVISED AGENDA CONSISTED OF (1) ELECTION OF HANS COLLIANDER (SWEDEN) AS CHAIRMAN AS PLANNED; (2) NUMBER OF STATEMENTS ON PROBLEMS OF PRESENT SYSTEM AND DESIRABLE FEATURES OF NEW SYSTEM; (3) LONG UNNECESSARY DISCUSSION OF CENTRALITY OF ARTICLE XIX TO SAFEGUARDS BUT NEED TO GO BEYOND; (4) DEFINITION OF SECRETARIAT WORK PROGRAM INCLUDING

AUSTRALIAN PROPOSAL FOR CLASSIFICATION OF PAST AND PRESENT SAFEGUARD ACTIONS BY TYPE AND GATT ARTICLE AND LDC REQUEST FOR DATA REGARDING IMPORT OF SAFEGUARD ACTIONS ON LDC'S; AND (5) SUMMING UP BY CHAIRMAN (SEPTTEL) WHICH FEATURES OPENNESS AND FLEXIBILITY OF GROUP AND SETTING OF NEXT MEETING TO BEGIN AFTERNOON OF JUNE 30 ON ASSUMPTION SECRETARIAT HAS COMPLETED NECESSARY WORK. GROUP WILL ALTERNATE THROUGH WEEK WITH SECTORS GROUP. JUNE 30 TERMS OF REFERENCE: "EXAMINATION OF THE OPERATION OF THE PRESENT MSS WITH A VIEW TO REVEALING ANY INADEQUACY. WHILE DOING SO, THE GROUP WILL KEEP IN MND THE INTERESTS OF THE DEVELOPING COUNTRIES."

4. U.S. (MATTHEISEN) SPOKE FIRST AND REAFFIRMED U.S. DESIRE FOR IMPROVED MULTILATERAL SAFEGUARD SYSTEM APPLICABLE TO ALL PRODUCTS AND ALL RESTRICTIONS. REITERATED THAT THIS TO BE ACHIEVED THROUGH METHODOICAL TWO-STAGE PROGRAM CONSISTING OF EXAMINATION OF PRESENT SYSTEM AND THEN DEFINITION OF ELEMENTS OF IMPROVED SYSTEM. U.S. OFFERED WORK OUTLINE AND AGENDA FOR POSSIBLE COMPLETION OF STAGE I AT JUNE MEETING, AND COMMENTED ON SECRETARIAT PAPERS ALONG LINES INDICATED IN POSITION PAPER. U.S. DEL SUGGESTED QUESTIONNAIRE RESPONSES BE PRESENTED BY TYPE OF MEASURE, BY COUNTRY, AND BY PRODUCT.

5. CANADA (ROY) SUGGESTED ARTICLE XIX NOT MANIFESTLY DEFICIENT BUT EXAMINATION WARRANTED. WISHED PROCEED WITHOUT UNDUE DELAY AND WITH DUE REGARD TO OTHER GROUPS. ANY NEW MSS SHOULD INCLUDE: TIME LIMITS ON SAFEGUARD ACTIONS; INTERNATIONAL SURVEILLANCE; LARGE COUNTRIES TREATED SAME AS SMALL; CONSIDERATION OF VRA'S, VARIABLE LEVIES, WAIVERS, PROTOCOLS OF LIMITED OFFICIAL USE

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PAGE 04 MTN GE 02611 01 OF 02 160845Z

ACCESSION, AND ESPECIALLY AGRICULTURE; DISTINCTION BETWEEN EMERGENCY AND LONGER TERM ACTIONS; AND PROVISION FOR SPECIAL BILATERAL OR TRILATERAL MEASURES THAT WOULD BE OF LIMITED DURATION AND CONSISTENT WITH THE GENERAL SYSTEM. (GREY HAD MENTIONED LAST IEEM PRIVATELY TO U.S. DEL AS POSSIBLE MECHANISM FOR HANDLING U.S.-MEXICO-CANADA PROBLEMS SUCH AS STRAWBERRIES AND OTHER SEASONAL PRODUCE.)

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PAGE 01 MTN GE 02611 02 OF 02 160903Z

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ACTION EB-07

INFO OCT-01 IO-10 ISO-00 AF-06 ARA-06 EA-06 EUR-12 NEA-09

FEA-01 AGR-05 CEA-01 CIAE-00 COME-00 DODE-00 FRB-03

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AID-05 CIEP-01 SS-15 STR-04 TAR-01 TRSE-00 USIA-06

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PAGE 02 MTN GE 02611 02 OF 02 160903Z

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LIMITED OFFICIAL USE SECTION 2 OF 2 MTN GENEVA 2611

6. AUSTRALIA (WARWICK-SMITH) PRESENTED WORK PROJECT LATER ADOPTED BY GROUP (SEPTEL) WHEREBY SECRETARIAT WILL FURNISH DATA ON SAFEGUARD MEASURES BY GATT ARTICLE OR TYPE OF MEASURE. AUSTRALIANS OUTLINED DESIRABLE FEATURES NEW MSS: ADJUSTMENT ASSISTANCE RELEVANT; MFN NOT TO BE ERODED; ONUS FOR CORRECTIVE ACTIONS TO BE ON EXPORTER AS WELL AS IMPORTER BUT WITH BALANCE OF OBLIGATIONS; ALL PRODUCTS TO BE COVERED; FINAL RIGHT OF SOVEREIGNTY IN TAKING SAFEGUARD ACTION; RELEVANCE OF MEASURES PRESENTLY INCLUDED UNDER ARTICLES XI, XII, XVIII, XIX, XX, XXV (INCLUDING WAIVERS), XXXV, BRA'S, VARIABLE LEVIES, MEASURES UNDER PROVISIONAL APPLICATION AND ACCESSION PROTOCOLS AND ILLEGAL QR'S; DISTINCTION BETWEEN SHORT AND LONG TERM; INTERNATIONAL SURVEILLANCE; MFA OF INTEREST; AND ARTICLE XIX CENTRAL BUT NOT EXCLUSIVE. NOTED FACT CERTAIN COUNTRIES USE ARTICLE XIX APPROPRIATELY AND BEAR ONUS WHILE OTHERS DO NOT.

7. EC (ABBOTT) SUPPORTED TWO-STAGE EXAMINATION BUT NOTED DIVERGENCE OF VIEWS ON POSSIBLE INADEQUACY OF ARTICLE XIX. EC OBJECTIVE IS A NEW SYSTEM PROPERLY RESPECTED AND NOT BY-PASSED. PROBLEM AREAS OR AREAS FOR IMPROVEMENT SEEN AS (1) CRITERIA FOR TAKING ACTION, INCLUDING DEGREE OF SPECIFICITY AND SURVEILLANCE OF SUCH NOT AS A JUDGE BUT AS A FORUM OR CHECK; (2) APPLICATION OF ARTICLE XIX ON MFN BASIS MAY CAUSE DIFFICULTY -- SELECTIVE APPLICATION MIGHT BE SUBJECT TO SURVEILLANCE AND (3) COMPENSATION AND RETALIATION WHICH ARE LESS JUSTIFIED WHEN MEASURES ARE TEMPORARY. IN DEFINING NEW MSS EC WOULD ALSO: DISTINGUISH LIMITED OFFICIAL USE

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PAGE 03 MTN GE 02611 02 OF 02 160903Z

BETWEEN APPROPRIATE REMEDIES; GIVE PRIMARY BUT NOT EXCLUSIVE IMPORTANCE TO ARTICLE XIX; AND MOVE IN PARALLEL WITH OTHER TNC GROUPS WHERE THERE IS A LINK. EC FELT MEASURES SUCH AS QR'S SHOULD BE DEALT WITH IN ONE GROUP, NOT SEVERAL.

8. JAPAN (MIZOGUCHI) ENDORSED EXAMINATION OF PRESENT SYSTEM BUT FELT ARTICLE XIX IS SATISFACTORY. REPEATED

THAT MSS SHOULD FEATURE: TEMPORARY MEASURES; DIGRESSIVITY; AND SURVEILLANCE. CLAIMED SAFEGUARD ACTIONS ARE TAKEN OUTSIDE GATT BECAUSE OF LACK OF POLITICAL WILL TO STICK TO PRINCIPLES OF GATT. IN PARTICULAR, RELAXATION OF MSS NOT A PREREQUISITE TO FURTHER LIBERALIZATION. SELECTIVE APPLICATION COULD CAUSE AVAILANCE OF MEASURES. JAPANESE (WADA AND NOGAMI) APPROACHED U.S. DEL TO OPPOSE CONSIDERATION OF NON-GOVERNMENTAL MEASURES SUCH AS INDUSTRY TO INDUSTRY AGREEMENTS. THEY ARGUED THAT GATT IS GOVERNMENT FORUM WITHOUT JURISDICTION OVER PRIVATE BUSINESS PRACTICES AND THAT SUCH AGREEMENTS (IF THERE WERE ANY) WOULD VIOLATE U.S. OR OTHER ANTI-TRUST LAWS. INDICATED THEY MIGHT HAVE TO TAKE ISSUE TO TNC IF PRESSED. U.S. DEL NOTED SAFEGUARD NATURE OF SUCH AGREEMENTS AND SUGGESTED SECRETARIAT BE ALLOWED TO PUT ANY INFORMATION THEY HAVE IN DOCUMENTS BEING PREPARED.

9. LDC'S (ESPECIALLY MEXICO, BRAZIL, NIGERIA) ENDORSED SPECIAL AND DIFFERENTIATED TREATMENT. GROUP ADOPTED MEXICO-BRAZIL WORK PROGRAM FOR SECRETARIAT TO UNDERTAKE A STUDY, WITH SOME RESULTS BY JUNE MEETING, OF IMPACT OF SAFEGUARD MEASURES ON EXPORTS AND ECONOMIES OF DEVELOPING COUNTRIES. DEVELOPING COUNTRIES PARTICULARLY NOTED THEIR INABILITY TO RETALIATE IN ESCAPE-CLAUSE ACTIONS. WOLFF

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